

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLIVIA Y., by and through her next friend, James D. Johnson; JAMISON J., by and through his next friend, Clara Lewis; DESIREE, RENEE, TYSON, and MONIQUE P., by and through their next friend, Sylvia Forster; JOHN A., by and through his next friend, James D. Johnson; CODY B., by and through his next friend, Sharon Scott; MARY, TOM, MATTHEW, and DANA W., by and through their next friend, Zelatra W.; AND SAM H., by and through his next friend, Yvette Bullock; on their own behalf and behalf of all others similarly situated,

Plaintiffs,

CIVIL ACTION NO.
3:04-CV-251-TSL-FKB

v.

PHIL BRYANT, as Governor of the State of Mississippi;
DONALD TAYLOR, as Executive Director of the
Department of Human Services; AND BILLY MANGOLD,
as Director of the Division of Family and Children's
Services,

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR EXTENSION OF TIME
TO RESPOND TO PLAINTIFFS' AMENDED MOTION FOR RELIEF PURSUANT TO
REMEDY PHASE OF PLAINTIFFS' RENEWED MOTION FOR CONTEMPT, FOR AN
EVIDENTIARY HEARING AND FOR THE APPOINTMENT OF A RECEIVER.**

Plaintiffs respectfully object to Defendants' request for an extension of time to respond to Plaintiffs' Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt, for an Evidentiary Hearing, and for Appointment of a Receiver ("Plaintiffs' Amended Motion"). Pursuant to local rules, Defendants' response is due on July 17, 2019. Defendants seek an extension until August 30, 2019 – an additional six and a half weeks.

Although Defendants did not seek Plaintiffs' consent prior to filing for an extension of

time, in light of Kenya Rachal's intermittent leave, Plaintiffs agree to an extension of an additional fourteen (14) days. Defendants' response would be due on July 31, 2019.

Plaintiffs believe that an additional two weeks to respond is fair considering a few factors. Plaintiffs' Amended Motion does address numerous violations of the Second Modified Mississippi Settlement Agreement ("2nd MSA"), but Defendants have had ongoing knowledge of these violations. Plaintiffs have sent two letters to Defendants notifying them of both their widespread noncompliance with the 2nd MSA and of Plaintiffs' intent to file a motion to enforce their rights under the settlement agreement.¹ In addition, the Monitor provided the Parties with a draft version of its 2018 monitoring report, detailing the aforementioned violations, on May 20, 2019. Defendants have had ample notice and time to investigate their noncompliance, starting well before Plaintiffs filed their Amended Motion on July 3, 2019. Further, Defendants are represented by the law firm Baker Donelson, which has additional attorneys who may perform work on this response in Ms. Rachal's absence. James L. Jones, for example, entered an appearance in this case in July 2018, more than one year ago.

Plaintiffs do not object to a reasonable extension of time for Defendants' response, but the additional six and a half weeks sought by Defendants is excessive. Children continue to suffer as a result of Defendants' noncompliance with the 2nd MSA. They need the quickest possible resolution of the pending motion, particularly given how long these constitutional violations have persisted. Therefore, Plaintiffs respectfully request the Court enter an order extending Defendants' time to respond by fourteen days, making Defendants' response due on July 31, 2019.

¹ Plaintiffs sent notices of noncompliance to Defendants on November 13, 2018 and March 6, 2019.

RESPECTFULLY SUBMITTED, this the 10th day of July 2019.

/s/ Michael J. Bentley
Wayne Drinkwater, Jr. (MBN 6193)
Michael J. Bentley (MBN 102631)
BRADLEY ARANT BOULT CUMMINGS LLP
One Jackson Place, Suite 400
188 East Capitol Street
Jackson, Mississippi 39201
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
Email: wdrinkwater@bradley.com
mbentley@bradley.com

Marcia Robinson Lowry (pro hac vice)
A Better Childhood, Inc.
355 Lexington Avenue, Floor 16
New York, New York 10017
Telephone (646) 808-7344
Email: mlowry@abetterchildhood.org

CERTIFICATE OF SERVICE

I hereby certify that on July 10th, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will deliver copies to all counsels or record.

/s/ Michael J. Bentley

Michael J. Bentley